UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,220	11/07/2000	Dan Kikinis	004688.P009	1136

52940 7590 01/26/2007

TODD S. PARKHURST
HOLLAND & KNIGHT LLP
131 S. DEARBORN STREET
30TH FLOOR
CHICAGO, IL 60603

EXAMINER	
LONSBERRY, HUNTER B	
ART UNIT	**PAPER NUMBER**
2623	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/708,220	KIKINIS ET AL.	
	Examiner	Art Unit	
	Hunter B. Lonsberry	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 October 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,5-10,13-27,29 and 30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,5-10,13-27,29 and 30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-5, 8-9, 20-23, and 26-27, 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,754,906 to Finseth in view of U.S. Patent 5,745,710 to Clanton, U.S. Patent 6,990,677 to Pietraszak and U.S. Patent 6,898762 to Ellis.

Regarding claim 1, Finseth discloses a 3d enabled electronic program guide (Figure 8a/b, column 16, lines 32-34), a user may select the style of the guide they wish to utilize (column 20, lines 57-59), receiver 64 receives EPG information from an EPG data transmitting system (column 5, line 33-38, line 60-column 6, line 38) a user may choose the guides dynamically (figure 10).

Finseth fails to disclose a plurality of virtual worlds, which are presented to the user for selection and a presentation engine, which enables a user to choose a virtual world according to preference, displaying program guide information within the chosen world, neither does Finseth explicitly disclose the use of a plurality of drivers, one of the drivers enabling the presentation engine to communicate with a television system for replenishing EPG information, nor does Finseth teach enabling the user to customize the EPG according to user preferences.

Clanton discloses a plurality of virtual worlds (Figure 4, archive 71, critics café 92, poster wall 80) and a presentation engine which enables a user to choose a virtual world according to preference (column 8, lines 3-19, 48-column 9, line 64) each virtual world displays corresponding program guide information (user views information on pizza delivery services, merchant information, news weather or sports programming) within the chosen virtual world (column 12, lines 10-26),

a memory in the system, which contains a plurality of objects (column 7, lines 13-18), one class of objects providing the plurality of virtual worlds a user views (column 7, lines 13-18, column 10, lines 26-29).

an intuitive interface which is fun and interesting to use is provided (column 2, lines 30-33).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Finseth to utilize a plurality of words with corresponding program guide information, which a user may select as taught by Clanton, thus providing an intuitive interface, which is fun and interesting.

The combination of Finseth and Clanton, while requiring some mechanism to communicate with the hardware of the device, fails to explicitly disclose the use of drivers, nor does Finseth teach enabling the user to customize the EPG according to user preferences

Pietraszak discloses in figure 3, the use of an EPG loader which makes use of a device driver 65 and a number of API's to interface with the hardware of a STB and retrieve EPG data from an EPG provider (column 9, line 17-column 10, line 33, drivers are software modules designed to interface with a particular hardware component) and allowing a user to print out EPG information, and access EPG information from a number of different providers.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth and Clanton to utilize the drivers, multiple providers and printing functions of Pietraszak for the advantages of enabling a user to print out EPG information so that they may view it away from their television and ensure that the hardware and software components can communicate with one another.

The combination of Finseth, Clanton and Pietrazak fails to teach enabling the user to customize the EPG according to user preferences.

Ellis discloses an EPG system in which a user may customize the EPG (figures 13-15, 22, 24), a user viewing history is used to target advertisements and suggest programs for the viewer to watch as well as set user preferences for viewing options, close captions etc (column 12, lines 32-65, column 14, line 24-column 15, line 42, column 20, lines 2-31).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth, Clanton and Pietrazak to utilize the customization features as taught by Ellis, in order to provide program suggestions to a user that match a user's interests, provide advertisements which would be of the most interest to the user.

Regarding claims 2, and 21, Finseth discloses in figure 3, a receiver 64 on which the EPG is run (column 9, lines 59-65, column 11, lines 23-29).

Regarding claims 5 and 23, Clanton discloses in figure 12, that a user may change channels during a movie (column 11, lines 29-44).

Clanton does not disclose a class of objects describing schedule times, including a channel id or title that may be converted into an actual channel number or program ID.

Finseth discloses a class of objects which includes descriptive language describing schedule times, thus class of objects having a channel id which may be converted into an actual channel number or program identification (column 7, lines 19-46, column 8, lines 22-34, figure 7).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the object classes of Clanton to include the descriptive objects of Finseth, thus enabling a user to readily identify a local channel by call sign and aide in the selection of programming.

Regarding claims 8 and 26, Clanton is relied upon to teach that a virtual world is automatically selected to be presented by the presentation engine based on the program content selected by the user (a user selects an "extra" (program content) and the corresponding virtual world content is automatically rendered, column 12, lines 1-26, 46-50).

Regarding claims 9 and 27, Clanton discloses a number of virtual worlds.

Clanton fails to disclose a virtual world displayed in a matrix of virtual boxes.

Finseth discloses in figure 7, a matrix of rectangular boxes, which a user may use to view future programming, the layout provides an intuitive interface as users are accustomed to reading from top to bottom (column 16, lines 14-19).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Clanton to utilize a matrix of rectangular boxes as taught by Finseth, thus providing an intuitive layout as viewers are accustomed to reading from top to bottom.

Regarding claim 20, Finseth discloses a 3d enabled electronic program guide (Figure 8a/b, column 16, lines 32-34), a user may select the style of the guide they wish to utilize (column 20, lines 57-59)

A receiver 64 receives EPG information from an EPG data transmitting system (column 5, line 33-38, line 60-column 6, line 38). Finseth inherently includes drivers as drivers are required in order to communicate with a hardware device..

Finseth fails to disclose a plurality of virtual worlds and a presentation engine, which enables a user to choose a virtual world according to preference and the use of drivers enabling the presentation engine to communicate with a TV system for replenishing program information and enabling the user to customize the EPG according to user preferences.

Clanton discloses a plurality of objects for selection (column 7, lines 13-18, column 10, lines 26-29, Figure 4, archive 71, critics café 92, poster wall 80)

a presentation engine, which enables a user to choose a virtual world according to preference (column 8, lines 3-19, 48-column 9, line 64), each virtual world displays corresponding program guide information (user views information on pizza delivery services, merchant information, news, weather or sports programming) within the chosen virtual world (column 12, lines 10-26), an intuitive interface which is fun and interesting to use is provided (column 2, lines 30-33).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Finseth to utilize a plurality of words that a user may select, each world displaying corresponding program guide information as taught by Clanton, for the advantage of providing an intuitive interface, which is fun and interesting.

The combination of Finseth and Clanton, while requiring some mechanism to communicate with the hardware of the device, fails to explicitly disclose the use of drivers and enabling the user to customize the EPG according to user preferences.

Pietraszak discloses in figure 3, the use of an EPG loader which makes use of a device driver 65 and a number of API's to interface with the hardware of a STB and retrieve EPG data from an EPG provider (column 9, line 17-column 10, line 33, drivers are software modules designed to interface with a particular hardware component) and allowing a user to print out EPG information, and access EPG information from a number of different providers.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth and Clanton to utilize the drivers, multiple providers and printing functions of Pietraszak for the advantages of enabling a user to print out EPG information so that they may view it away from their television and ensure that the hardware and software components can communicate with one another.

The combination of Finseth, Clanton and Pietrazak fails to teach enabling the user to customize the EPG according to user preferences.

Ellis discloses an EPG system in which a user may customize the EPG (figures 13-15, 22, 24), a user viewing history is used to target advertisements and suggest programs for the viewer to watch as well as set user preferences for viewing options, close captions etc (column 12, lines 32-65, column 14, line 24-column 15, line 42, column 20, lines 2-31).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth, Clanton and Pietrazak to utilize the customization features as taught by Ellis, in order to provide program suggestions to a user that match a user's interests, provide advertisements which would be of the most interest to the user.

Regarding claims 29-30, Clanton discloses that a user may choose a virtual world to display programming information (column 10, lines 34-43). Clanton inherently enables a programmer to choose a virtual world to display programming information, as a programmer is required to create the user interface and designate which module within the interface would carry and display the programming information.

3. Claims 10, 13-15,18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,754,906 to Finseth in view of U.S. Patent 5,745,710 to Clanton and U.S. Patent 6,898762 to Ellis.

Regarding claim 10, Finseth discloses a 3d enabled electronic program guide (Figure 8a/b, column 16, lines 32-34), a user may select the style of the guide they wish to utilize (column 20, lines 57-59), receiver 64 receives EPG information from an EPG data transmitting system (column 5, line 33-38, line 60-column 6, line 38).

Finseth fails to disclose a plurality of virtual worlds, which are presented to the user for selection and a presentation engine, which enables a user to choose a virtual

world according to preference, displaying program guide information within the chosen world, neither does Finseth explicitly disclose the use of a plurality of drivers, one of the drivers enabling the presentation engine to communicate with a television system for replenishing EPG information.

Clanton discloses a plurality of virtual worlds (Figure 4, archive 71, critics café 92, poster wall 80) and a presentation engine which enables a user to choose a virtual world according to preference (column 8, lines 3-19, 48-column 9, line 64) each virtual world displays corresponding program guide information (user views information on pizza delivery services, merchant information, news weather or sports programming) within the chosen virtual world (column 12, lines 10-26),

a memory in the system, which contains a plurality of objects (column 7, lines 13-18), one class of objects providing the plurality of virtual worlds a user views (column 7, lines 13-18, column 10, lines 26-29).

an intuitive interface which is fun and interesting to use is provided (column 2, lines 30-33).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Finseth to utilize a plurality of words with corresponding program guide information, which a user may select as taught by Clanton, thus providing an intuitive interface, which is fun and interesting.

The combination of Finseth, and Clanton fails to teach enabling the user to customize the EPG according to user preferences.

Ellis discloses an EPG system in which a user may customize the EPG (figures 13-15, 22, 24), a user viewing history is used to target advertisements and suggest programs for the viewer to watch as well as set user preferences for viewing options, close captions etc (column 12, lines 32-65, column 14, line 24-column 15, line 42, column 20, lines 2-31).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth and Clanton to utilize the customization features as taught by Ellis, in order to provide program suggestions to a user that match a user's interests, provide advertisements which would be of the most interest to the user.

Regarding claim 13, Clanton discloses a memory in the system, which contains a plurality of objects (column 7, lines 13-18), one class of objects providing the plurality of virtual worlds a user views (column 7, lines 13-18, column 10, lines 26-29).

Regarding claim 14, Clanton discloses that the virtual worlds contain a plurality of objects, each object linked to an item to display (column 8, lines 48-61, Figures 5 and 8).

Regarding claim 15, Clanton discloses in figure 12, that a user may change channels during a movie (column 11, lines 29-44).

Clanton does not disclose a class of objects describing schedule times, including a channel id or title that may be converted into an actual channel number or program ID.

Finseth discloses a class of objects which includes descriptive language describing schedule times, thus class of objects having a channel id which may be converted into an actual channel number or program identification (column 7, lines 19-46, column 8, lines 22-34, figure 7).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the object classes of Clanton to include the descriptive objects of Finseth, thus enabling a user to readily identify a local channel by call sign and aide in the selection of programming.

Regarding claim 18, Clanton is relied upon to teach that a virtual world is automatically selected to be presented by the presentation engine based on the program content selected by the user (a user selects an "extra" (program content) and the corresponding virtual world content is automatically rendered, column 12, lines 1-26, 46-50).

Regarding claim 19, Clanton discloses a number of virtual worlds.

Clanton fails to disclose a virtual world displayed in a matrix of virtual boxes.

Finseth discloses in figure 7, a matrix of rectangular boxes, which a user may use to view future programming, the layout provides an intuitive interface as users are accustomed to reading from top to bottom (column 16, lines 14-19).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Clanton to utilize a matrix of rectangular boxes as taught by Finseth, thus providing an intuitive layout as viewers are accustomed to reading from top to bottom.

4. Claims 6 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,754,906 to Finseth in view of U.S. Patent 5,745,710 to Clanton and U.S. Patent 6,898762 to Ellis in further view of U.S. Patent 5,850,218 to LaJoie.

Regarding claims 6 and 24, Finseth discloses an EPG.

Finseth and Clanton do not disclose that the object class containing the psuedo descriptive language included localized aspects.

LaJoie discloses an EPG Figure 16, in which a location station ID name 370 is associated with a channel number 372, a service table 103, utilized by the terminal identifies a channel source, and its corresponding descriptive information such as call sign or logo by referring to column 125 within table 103 (column 16, lines 29-51).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth, Clanton and Ellis to include localized information as taught by LaJoie, thus enabling a user to easily recognize a local channel by its station ID name.

5. Claims 7 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,754,906 to Finseth in view of U.S. Patent 5,745,710 to Clanton in further view of U.S. Patent 6,240,555 to Shoff.

Regarding Claims 7 and 25, Finseth discloses in Figure 9, an operating menu 124 in which a user may purchase items through an electronic catalog (column 20, lines 23-30).

Finseth and Clanton fail to disclose a number of non-EPG objects including interaction objects used for e-commerce conflated with one or more virtual worlds.

Shoff discloses an EPG in which a user may activate an interactive mode (virtual world) which is thematically related to a television program, in Figures 8b/c, a user may activate a button 220 which allows a user to open a merchandise catalog and order a product (column 10, lines 34-58, column 11, lines 3-11, 39-44, column 12, lines 7-23).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth and Clanton to include the e-commerce mode of Shoff thus allowing a user to purchase products related to a virtual world, and providing an increased sales opportunity by taking advantage of a user's affinity to the virtual world.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,754,906 to Finseth in view of U.S. Patent 5,745,710 to Clanton, U.S. Patent 6,990,677 to Pietraszak and U.S. Patent 6,898762 to Ellis and in further view of U.S. Patent 5,850,218 to LaJoie.

Regarding claim 16, Finseth discloses an EPG.

The combination of Finseth, Clanton, Pietraszak and Ellis do not disclose that the object class containing the psuedo descriptive language included localized aspects.

LaJoie discloses an EPG Figure 16, in which a location station ID name 370 is associated with a channel number 372, a service table 103, utilized by the terminal identifies a channel source, and its corresponding descriptive information such as call sign or logo by referring to column 125 within table 103 (column 16, lines 29-51).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth, Clanton, Pietraszak and Ellis to include localized information as taught by LaJoie, thus enabling a user to easily recognize a local channel by its station ID name.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,754,906 to Finseth in view of U.S. Patent 5,745,710 to Clanton , U.S. Patent 6,990,677 to Pietraszak and U.S. Patent 6,898762 to Ellis and in further view of U.S. Patent 6,240,555 to Shoff.

Claim 17 , Finseth discloses in Figure 9, an operating menu 124 in which a user may purchase items through an electronic catalog (column 20, lines 23-30).

The combination of Finseth, Clanton Ellis and Pietraszak fail to disclose a number of non-EPG objects including interaction objects used for e-commerce conflated with one or more virtual worlds.

Shoff discloses an EPG in which a user may activate an interactive mode (virtual world) which is thematically related to a television program, in Figures 8b/c, a user may activate a button 220 which allows a user to open a merchandise catalog and order a product (column 10, lines 34-58, column 11, lines 3-11, 39-44, column 12, lines 7-23).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Finseth, Clanton Ellis and Pietraszak to include the e-commerce mode of Shoff thus allowing a user to purchase products related to a virtual world, and providing an increased sales opportunity by taking advantage of a user's affinity to the virtual world.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HBL

Hunter Lonsberry
Patent Examiner
Art Unit 2623